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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/040,975	12/28/2001	Richard H. Crump	NOR-099 (13612BAUS01U)	1741
32836 7590 03/07/2008 GUERIN & RODRIGUEZ, LLP 5 MOUNT ROYAL AVENUE MOUNT ROYAL OFFICE PARK MARLBOROUGH, MA 01752				
EXAMINER NEURAUTER, GEORGE C				
ART UNIT 2143		PAPER NUMBER		
MAIL DATE 03/07/2008		DELIVERY MODE PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/040,975

Applicant(s)

CRUMP ET AL.

Examiner

George C. Neurauter, Jr.

Art Unit

2143

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 October 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3,4,6,7,9,10 and 12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3,4,6,7,9,10 and 12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB-08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 31 October 2007 has been entered.

Response to Arguments

Applicant's arguments filed 31 October 2007 have been fully considered but they are not persuasive.

The Applicant requested that the Examiner consider the arguments made in the Appeal Brief filed 7 September 2007 and the affidavits filed under 37 CFR 1.131 which were filed along with the filed brief. A consideration of the affidavits follows below. However, since the Applicant did not file any additional arguments along with the current request for continued examination, it is submitted that such arguments are similar in scope to those submitted in previous replies and the Examiner finds that the Examiner's previous rebuttals made of record throughout the prosecution history are equally applicable to the

remarks made in the Appeal Brief. Therefore, the Examiner maintains the rejections based on the previously made rebuttals to the Applicant's arguments and the claims are not currently in condition for allowance.

Response to Amendment

The affidavits filed on 31 October 2007 under 37 CFR 1.131 have been considered but are ineffective to overcome the Akahane reference because it fails to establish any diligence prior to the date of the reference.

In order to expedite prosecution, the Examiner will note the most substantive deficiencies in the proposed showing under 37 CFR 1.131. The Examiner notes that these comments are not meant to be comprehensive in any way. The Applicant has the burden of providing a proper showing of prior invention.

It appears that the Applicant is attempting to show prior invention by showing by conception coupled with diligence, however, the Examiner is only assuming that this is the case since the Applicant has not provided a statement or even an general allegation to this effect.

The Applicant has failed to specifically show how the exhibits filed support the claimed invention. The affidavit or declaration and exhibits must clearly explain which facts or data applicant is relying on to show completion of his or her

invention prior to the particular date. Vague and general statements in broad terms about what the exhibits describe along with a general assertion that the exhibits describe a reduction to practice "amounts essentially to mere pleading, unsupported by proof or a showing of facts" and, thus, does not satisfy the requirements of 37 CFR 1.131(b). *In re Borkowski*, 505 F.2d 713, 184 USPQ 29 (CCPA 1974). Applicant must give a clear explanation of the exhibits pointing out exactly what facts are established and relied on by applicant. 505 F.2d at 718-19, 184 USPQ at 33. See also *In re Harry*, 333 F.2d 920, 142 USPQ 164 (CCPA 1964) (Affidavit "asserts that facts exist but does not tell what they are or when they occurred.").

The affidavit or declaration must state FACTS and produce such documentary evidence and exhibits in support thereof as are available to show conception and completion of invention in this country or in a NAFTA or WTO member country (MPEP § 715.07(c)), at least the conception being at a date prior to the effective date of the reference. Where there has not been reduction to practice prior to the date of the reference, the applicant or patent owner must also show diligence in the completion of his or her invention from a time just prior to the date of the reference continuously up to the date of an actual reduction to practice or up to the date of filing his or her application

(filing constitutes a constructive reduction to practice, 37 CFR 1.131).

As discussed above, 37 CFR 1.131(b) provides three ways in which an applicant can establish prior invention of the claimed subject matter. The showing of facts must be sufficient to show:

(A) actual reduction to practice of the invention prior to the effective date of the reference; or

(B) conception of the invention prior to the effective date of the reference coupled with due diligence from prior to the reference date to a subsequent (actual) reduction to practice; or

(C) conception of the invention prior to the effective date of the reference coupled with due diligence from prior to the reference date to the filing date of the application (constructive reduction to practice).

The evidence submitted is insufficient to establish diligence from a date prior to the date of reduction to practice of the Akahane reference to either a constructive reduction to practice or an actual reduction to practice for at least the reasons stated above.

Therefore, the claims continue to be rejected under 35 USC 103(a).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1, 3-4, 6-7, 9-10, and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent Application Publication 2001/0050914 over Akahane et al in view of Applicant's admitted prior art.

Regarding claim 1, Akahane discloses routing packets in a router having a plurality of interfaces through which the packets are received from a plurality of address domains and

having a separate routing table dedicated to each address domain comprising identifying an appropriate routing table for received packets (paragraphs 0006 and 0007; see also paragraph 0016).

Akahane does not expressly disclose executing a single IP stack to receive packets from any of the router interfaces and to identify an appropriate routing table for received packets, however, Akahane does disclose determining the one routing table by a router that contains means for receiving and processing IP packets and identifying an appropriate routing table for received packets as shown above (see also paragraphs 0006, 0012, and 0039).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Akahane and Applicant's admitted prior art to execute a single IP stack to receive packets from any of the router interfaces and to identify an appropriate routing table for received packets since the Applicant has admitted that execute a single IP stack to receive packets from any of the router interfaces and perform other router-executable processes is well known in the prior art (see paragraph 0003 within the specification) and, therefore, one of ordinary skill in the art would have found it obvious to modify the teachings of Akahane since it would have been within the level of knowledge of one of

ordinary skill in the art at the time the invention was made to use a single IP stack to perform these processes as admitted by the Applicant and disclosed within the teachings of Akahane.

Regarding claim 3, Akahane and Applicant's admitted prior art disclose the method of claim 1.

Akahane discloses wherein a mapping array associates interfaces connecting to the same address domain with the same routing table. (paragraphs 0006 and 0007; see also paragraph 0016)

Regarding claim 4, Akahane and Applicant's admitted prior art disclose the method of claim 1.

Akahane does not expressly disclose wherein executing a single IP stack forwards a received packet according to the identified routing table when the received packet is a data packet and updates the identified routing table when the received packet is a control packet, however, Akahane does disclose determining the one routing table by a router that contains means for receiving and processing IP packets as shown above (see also paragraphs 0006, 0012, and 0039).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Akahane and Applicant's admitted prior art to forward a received packet according to the identified routing table when

the received packet is a data packet and update the identified routing table when the received packet is a control packet by a single IP stack since the Applicant has admitted that doing so is well known in the prior art for making necessary updates to a routing table when network topology changes (paragraphs 0003 and 0004) and, therefore, one of ordinary skill in the art would have found it obvious to modify the teachings of Akahane to include this subject matter in order to achieve the advantages as admitted by the Applicant and it would have been within the level of knowledge of one of ordinary skill in the art at the time the invention was made.

Regarding claim 6, Akahane and Applicant's admitted prior art disclose the method of claim 1.

Akahane discloses wherein each of the plurality of address domains represents a virtual private network. (paragraph 0006, specifically "Private IP addresses are often used in intra-corporation networks...private IP address are used in the VPNs...")

Claims 7, 9-10, and 12 are also rejected since these claims recite a router that contain substantially the same limitations as recited in claims 1, 3-4, and 6 respectively.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to George C. Neurauter, Jr. whose telephone number is 571-272-3918. The examiner can normally be reached on Monday-Friday 9am-5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Flynn, can be reached on 571-272-1915. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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/George C. Neurauter, Jr./
Primary Examiner, Art Unit 2143